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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/665,821	09/20/2000	Kenneth J. Kirchhoff	55824USA3A.002	8078

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EXAMINER

BAXTER, GWENDOLYN WRENN

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/665,821

Applicant(s)

KIRCHHOFF, KENNETH J.

Examiner

Gwendolyn Baxter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-10, 12-17 and 19-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-27 is/are allowed.
- 6) ☒ Claim(s) 2, 3, 6-10, 12-14, 17 and 30-32 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 15, 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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This is the sixth office action for serial number 09/665,821, Adjustable Keyboard Tray, filed on September 20, 2000. Applicant has filed a requested for continued examination filed March 22, 2004.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 6, 12, 13 and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,616,798 to Smeenge in view of U.S. Patent No. 5,655,743 to Martin. Smeenge discloses an adjustable keyboard tray comprising a tray (11) having a molded top and bottom plates (not numbered) and a mounting plate (50). The top and bottom plates are made of a polymeric material (col. 5, lines 34+). The mounting plate is secured to the adjustable keyboard tray to the bracketing mechanism (12). The mounting plate is secured to the bottom plate of the adjustable keyboard tray in a recessed mounting area to maintain a substantially smooth under surface along the bottom plate. See figure 7. The top and bottom plates form a cavity (45) and are made of plastic or synthetic resin. Furthermore, the mounting plate is secured to a bottom surface (which is shown to be the portion or flanges for which the plate is placed) of the bottom plate of the adjustable keyboard in a recessed mounting area of the bottom plate. The top surface of the mounting plate is in direct alignment

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with the top surface of the bottom plate. However, Smeenge fails to teach the bottom plate of the tray being secured to the top plate.

Martin teaches a keyboard tray comprising a top plate (21) and medial plate (22) forming a cavity there between. For purpose of this Office action, the medial plate will be referred to as the bottom plate of the keyboard tray. Beneath the bottom plate of the tray is a resilient foam material to rest upon the user's lap. The top and bottom plates are formed of a polymeric material (col. 4, line 4+). A pocket is created along a side of the keyboard tray that is aligned with an opening (33) through the side of the tray to receive and secure a mouse bracket (39), which supports a mouse platform. The mouse bracket is releasably secured in the pocket by a tab (53) and is received in a slot (52) on the mouse bracket. The bottom plate is shown having a plurality of inner walls (43) along the opposed facing surface. See figure 4. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the molded integral tray as taught by Smeenge to have incorporated the stackable molded top and bottom plates as taught by Martin for the purpose supporting a keyboard thereupon as merely functional equivalent parts while simultaneously supporting a mouse thereupon. Additionally, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the tray of Smeenge into a top and bottom plates, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art and for the purpose of serving as a guide for the mouse bracket. *Nerwin v. Erlichman*, 168 USPQ 177, 179. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the top plate to include a plurality of inner walls along the opposed facing surface, since it has

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been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Regarding claim 30, the limitation "opposed facing surfaces that are ultrasonically welded together" has not been given patentability weight, since this limitation is a product by process limitation.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smeenge in view of Martin, as applied to claims 2, 6, 12 and 13, and in further view of Meier. Smeenge in view of Martin teaches the limitations of the base claim, excluding the top and bottom plates being secured together by ultrasonic welding.

Meier teaches a planar structure having polymeric components that are welded together by ultrasonic or high frequency, etc. (Col. 6, lines 14-2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the means for attaching the top and bottom plate as taught by Smeenge in view of Martin to have incorporated the ultrasonic welding teaching as taught by Meier as an alternate means of attaching the polymeric top and bottom plates.

Allowable Subject Matter

Claims 7/6/2, 8/7/6/2, 9/7/6/2 and 10/9/7/6/2 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 3-5, 6/3, 7/6/3, 8/7/6/3, 9/7/6/3 and 10/9/7/6/3, 12/14, 14-17, 19-27 and 29 are allowed.

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The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach the retaining bracket is mounted in a recessed mounting area formed along a bottom surface of the bottom plate creating a channel there between that secures the mounting plate.

Response to Arguments

Applicant's arguments filed March 22, 2004 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a bottom surface (the exterior) of the bottom plate in a recessed mounting area of the bottom plate) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory


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period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 703-308-0702. The examiner can normally be reached on Monday-Wednesday, 8:00am -5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gwendolyn Baxter
Primary Examiner
Art Unit 3632

June 11, 2004